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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ALVARO RODRIGUEZ,

Plaintiff,

v.

STATE OF CALIFORNIA,

Defendant.

Case No. C 07-04126-SI

**DEFENDANT STATE OF
CALIFORNIA'S REQUEST FOR
CONTINUANCE OF CASE
MANAGEMENT CONFERENCE
PENDING HEARING OF
DISPOSITIVE MOTION;
[PROPOSED] ORDER**

**CMC Date: December 7, 2007
Time: 2:00 p.m.
Courtroom: 10 (19th Floor)
Judge: Honorable Susan Illston**

E-FILING

A. Nature of Action; Procedural Status.

This is an action for damages brought by *pro per* plaintiff pursuant to 42 U.S.C. § 1983. Plaintiff sues the State seeking to vacate the DUI conviction obtained against him in prior state court criminal proceedings.

Following service of this action, Defendant State has promptly calendared a motion to dismiss, now set for hearing on January 4, 2008. The motion asserts, *inter alia*, that the action is barred by Eleventh Amendment immunity, the Rooker-Feldman doctrine and under *Heck v. Humphrey*.

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1 **B. Grounds for Request.**

2 After filing, the matter was set for a case management conference for December 7, 2007.
3 Proper preparation for such a conference would require a substantial amount of effort, including
4 service and filing of early disclosures, and a joint case management conference statement.

5 Given the pendency of the State's dispositive motion, however, it would appear premature
6 to hold the case management conference at the scheduled time. Obviously, if the motion is
7 successful, the necessity for the conference would be mooted. However, even if the motion is
8 not wholly-dispositive, the likely narrowing of issues would render much of the conference
9 preparation and discovery unnecessary.

10 Consequently, in the interests of justice, to avoid unnecessary time and expense to all
11 parties, defendant State of California herein respectfully request that the current case
12 management conference (and associated requirements) be continued and/or vacated pending the
13 hearing on the State's motion.

14 Dated: November 13, 2007.

15 Respectfully submitted,

16 EDMUND G. BROWN JR.
17 Attorney General of the State of California


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19 s/Paul T. Hammerness
20 PAUL T. HAMMERNESS
21 Supervising Deputy Attorney General

22 Attorneys for Defendant State of California
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[PROPOSED] ORDER

IT IS ORDERED that the Initial Case Management Conference herein be continued to
18
January _____, 2008.

DATED: _____


SUSAN ILLSTON
United States District Court Judge